

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20162
[REDACTED],)	
)	DECISION
Petitioner.)	
)	
)	
)	

On February 27, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (Petitioner) asserting income tax, penalty, and interest in the amount of \$5,665 for the 2001 taxable year. The Notice advised the Petitioner that, if he disagreed with the deficiency determined by the Bureau, he could petition the Tax Commission for a redetermination.

The Petitioner filed a “Constructive Notice and Demand for Verification of Authority” dated April 30, 2007, which the Commission treated as a petition for redetermination. In letters dated June 7, 2007, and August 29, 2007, the Commission notified the Petitioner that he could meet with a Commissioner or a designee in an informal conference to discuss the deficiency determined by the Bureau, or, in the alternative, submit additional information to show why the deficiency should be redetermined. The Petitioner did not respond to these letters.

This decision is based on the information contained in the Commission’s files. The Commission has reviewed the files, is advised of their contents, and now issues this decision. For the reasons set forth below, the Commission affirms the deficiency determined by the Bureau with interest updated through July 1, 2008.

The Petitioner filed his 2001 individual income tax return on October 2, 2003, claiming a refund of \$1,937. The refund was paid to the Petitioner on September 9, 2004. The Petitioner filed amended returns for the 2000 tax year on two separate occasions requesting a refund. The

Tax Discovery Bureau reviewed the amended returns and in the process, reviewed the Petitioner's 2001 return that had been previously processed with the \$1,937 refund. The Tax Discovery Bureau determined that the Petitioner's 2000 amended returns were not valid and that the Petitioner's 2001 individual income tax return had been accepted in error and no refund should have been issued. A Notice of Deficiency Determination was issued to the Petitioner on February 27, 2007, stating that \$28,070 in itemized deductions was disallowed.

The Petitioner responded to the Notice of Deficiency Determination by sending a "Constructive Notice and Demand for Verification of Authority." In this document, the Petitioner gave notice that the Tax Commission was required to establish that the Petitioner received taxable income. The Petitioner also questioned the authority of the state of Idaho to collect individual income tax.

The basis of the Notice of Deficiency in this case is the Petitioner's deduction of his entire W-2 wages which accounts for the \$28,070 of itemized deductions disallowed. With his amended returns, the Petitioner filed a federal disclosure statement on Form 8275 stating that the basis for deduction of his wages was Internal Revenue Code (I.R.C.) § 212 which allows deductions for ordinary and necessary expenses for the production of income.

Under I.R.C. § 212, deductions are allowed for ordinary and necessary expenses incurred "for the production or collection of income." This code section was enacted to allow for

deductions for expenses that are related to investment activities.¹ The Petitioner's wages were not an expense incurred in an investment activity. Consequently, the deduction the Petitioner claims for his W-2 wages is patently without legal basis, and the Tax Commission, therefore, finds that the amounts shown due on the Notice of Deficiency Determination are true and correct.

WHEREFORE, the Notice of Deficiency Determination dated February 27, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Petitioner pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$3,647	\$912	\$1,404	<u>\$5,963</u>

Interest is calculated through July 1, 2008, and will continue to accrue until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed.

1. [Redacted]

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.
